

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SEPTIMUS SCOTT,

Plaintiff,

v.

THE CITY OF ROCHESTER, a municipal entity, POLICE OFFICER JEFFREY KESTER, IBM #2230, POLICE OFFICER DESTINY DETERVILLE, IBM #2224, LIEUTENANT NASER ZENELOVIC, and Police Officers "JOHN DOES 1-10" (names and number of whom are unknown at present), and other unidentified members of the Rochester Police Department,

Defendants.

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SUR-SUR REPLY  
DECLARATION IN  
SUPPORT OF  
DEFENDANTS' MOTION  
FOR PARTIAL DISMISSAL

17-cv-6359 (FPG)(MWP)

PATRICK BEATH, Esq., declares and says:

1. I am an attorney with the City of Rochester Corporation Counsel's Office, attorneys for Defendants. I am admitted to practice law before the courts of the State of New York and in the United States District Court, Western District of New York.

2. I submit this Declaration in support of Defendants' F.R.C.P. Rule 12(b)(6) Motion for Partial Dismissal for Failure to State a Claim. The information set forth herein is based upon my personal knowledge, a review of the proceedings in this action, and a review of relevant case law.

3. Annexed hereto as Exhibit E is a copy of the Amended Complaint in the matter of *Keene v. City of Rochester, et al.*, 17-cv-6708 W.D.N.Y.

4. Annexed hereto as Exhibit F is an excerpt of the deposition testimony of former RPD Chief James Sheppard, in which he explains that, where an individual on the street does not

disperse in response to a police directive to do so, the police are not to take further police action unless the individual is committing an offense that would justify such police action.

DATED: May 15, 2018

TIMOTHY R. CURTIN, CORPORATION COUNSEL

/S/Patrick Beath

BY: PATRICK BEATH, ESQ, of Counsel  
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